



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

HB0988

Introduced 2/8/2007, by Rep. Brandon W. Phelps

SYNOPSIS AS INTRODUCED:

65 ILCS 5/10-1-14

from Ch. 24, par. 10-1-14

65 ILCS 5/10-2.1-4

from Ch. 24, par. 10-2.1-4

70 ILCS 705/16.06

from Ch. 127 1/2, par. 37.06

Amends the Illinois Municipal Code and the Fire Protection District Act. Provides that a person who has not qualified for a regular appointment shall not be used as a temporary or permanent substitute.

LRB095 07172 HLH 27303 b

1 AN ACT concerning local government.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Municipal Code is amended by
5 changing Sections 10-1-14 and 10-2.1-4 as follows:

6 (65 ILCS 5/10-1-14) (from Ch. 24, par. 10-1-14)

7 Sec. 10-1-14. The head of the department or office in which
8 a position classified under this Division 1 is to be filled
9 shall notify the commission of that fact, and the commission
10 shall certify to the appointing officer the name and address of
11 the candidate standing highest upon the register for the class
12 or grade to which the position belongs. However, in cases of
13 laborers where a choice by competition is impracticable, the
14 commission may provide by its rules that the selections shall
15 be made by lot from among those candidates proved fit by
16 examination, but laborers who have previously been in the
17 service and were removed because their services were no longer
18 required, shall be preferred, and be reinstated before other
19 laborers are given positions, preference being given to those
20 who have had the longest term of service, and laborers in the
21 employ of the municipality on July 1, 1949, who, as of such
22 date, have been employed under temporary authority for 3 years
23 or more or during parts of 3 or more calendar years, shall be

1 preferred also, and shall be placed upon the register for such
2 positions without examination and shall be certified before
3 other laborers are given positions, preference being given to
4 those laborers under temporary authority who have had the
5 longest term of service in such positions. In making such
6 certification, sex shall be disregarded. The appointing
7 officer shall notify the commission of each position to be
8 filled, separately, and shall fill such place by the
9 appointment of the person certified to him or her by the
10 commission therefor. Original appointment shall be on
11 probation for a period not to exceed 6 months to be fixed by
12 the rules but all time spent in attending training schools and
13 seminars, except on-the-job training conducted by local Fire
14 Department personnel, shall be excluded in calculating the
15 probation period; provided that in municipalities with a
16 population of more than 500,000 inhabitants, original
17 appointment to the police department shall be on probation for
18 a period not to exceed 9 months to be fixed by the rules of the
19 department. The commission may strike off names of candidates
20 from the register after they have remained thereon more than 2
21 years. At or before the expiration of the period of probation,
22 the head of the department or office in which a candidate is
23 employed may, by and with the consent of the commission,
24 discharge him or her upon assigning in writing his or her
25 reason therefor to the commission. If he or she is not then
26 discharged, his or her appointment shall be deemed complete. To

1 prevent the stoppage of public business, or to meet
2 extraordinary exigencies, the head of any department or office
3 may, with the approval of the commission, make temporary
4 appointment to remain in force not exceeding 120 days, and only
5 until regular appointments under the provisions of this
6 Division 1 can be made. A person who has not qualified for
7 regular appointment under the provisions of this Division 1
8 shall not be used as a temporary or permanent substitute for
9 classified members of a municipality's fire department or for
10 regular appointment as a classified member of a municipality's
11 fire department.

12 (Source: P.A. 80-1364.)

13 (65 ILCS 5/10-2.1-4) (from Ch. 24, par. 10-2.1-4)

14 Sec. 10-2.1-4. Fire and police departments; Appointment of
15 members; Certificates of appointments.

16 The board of fire and police commissioners shall appoint
17 all officers and members of the fire and police departments of
18 the municipality, including the chief of police and the chief
19 of the fire department, unless the council or board of trustees
20 shall by ordinance as to them otherwise provide; except as
21 otherwise provided in this Section, and except that in any
22 municipality which adopts or has adopted this Division 2.1 and
23 also adopts or has adopted Article 5 of this Code, the chief of
24 police and the chief of the fire department shall be appointed
25 by the municipal manager, if it is provided by ordinance in

1 such municipality that such chiefs, or either of them, shall
2 not be appointed by the board of fire and police commissioners.

3 If the chief of the fire department or the chief of the
4 police department or both of them are appointed in the manner
5 provided by ordinance, they may be removed or discharged by the
6 appointing authority. In such case the appointing authority
7 shall file with the corporate authorities the reasons for such
8 removal or discharge, which removal or discharge shall not
9 become effective unless confirmed by a majority vote of the
10 corporate authorities.

11 If a member of the department is appointed chief of police
12 or chief of the fire department prior to being eligible to
13 retire on pension, he shall be considered as on furlough from
14 the rank he held immediately prior to his appointment as chief.
15 If he resigns as chief or is discharged as chief prior to
16 attaining eligibility to retire on pension, he shall revert to
17 and be established in whatever rank he currently holds, except
18 for previously appointed positions, and thereafter be entitled
19 to all the benefits and emoluments of that rank, without regard
20 as to whether a vacancy then exists in that rank.

21 All appointments to each department other than that of the
22 lowest rank, however, shall be from the rank next below that to
23 which the appointment is made except as otherwise provided in
24 this Section, and except that the chief of police and the chief
25 of the fire department may be appointed from among members of
26 the police and fire departments, respectively, regardless of

1 rank, unless the council or board of trustees shall have by
2 ordinance as to them otherwise provided. A chief of police or
3 the chief of the fire department, having been appointed from
4 among members of the police or fire department, respectively,
5 shall be permitted, regardless of rank, to take promotional
6 exams and be promoted to a higher classified rank than he
7 currently holds, without having to resign as chief of police or
8 chief of the fire department.

9 The sole authority to issue certificates of appointment
10 shall be vested in the Board of Fire and Police Commissioners
11 and all certificates of appointments issued to any officer or
12 member of the fire or police department of a municipality shall
13 be signed by the chairman and secretary respectively of the
14 board of fire and police commissioners of such municipality,
15 upon appointment of such officer or member of the fire and
16 police department of such municipality by action of the board
17 of fire and police commissioners. A person who has not
18 qualified for regular appointment under the provisions of this
19 Division 2.1 shall not be used as a temporary or permanent
20 substitute for certificated members of a municipality's fire
21 department or for regular appointment as a certificated member
22 of a municipality's fire department.

23 The term "policemen" as used in this Division does not
24 include auxiliary police officers except as provided for in
25 Section 10-2.1-6.

26 Any full time member of a regular fire or police department

1 of any municipality which comes under the provisions of this
2 Division or adopts this Division 2.1 or which has adopted any
3 of the prior Acts pertaining to fire and police commissioners,
4 is a city officer.

5 Notwithstanding any other provision of this Section, the
6 Chief of Police of a department in a non-homerule municipality
7 of more than 130,000 inhabitants may, without the advice or
8 consent of the Board of Fire and Police Commissioners, appoint
9 up to 6 officers who shall be known as deputy chiefs or
10 assistant deputy chiefs, and whose rank shall be immediately
11 below that of Chief. The deputy or assistant deputy chiefs may
12 be appointed from any rank of sworn officers of that
13 municipality, but no person who is not such a sworn officer may
14 be so appointed. Such deputy chief or assistant deputy chief
15 shall have the authority to direct and issue orders to all
16 employees of the Department holding the rank of captain or any
17 lower rank. A deputy chief of police or assistant deputy chief
18 of police, having been appointed from any rank of sworn
19 officers of that municipality, shall be permitted, regardless
20 of rank, to take promotional exams and be promoted to a higher
21 classified rank than he currently holds, without having to
22 resign as deputy chief of police or assistant deputy chief of
23 police.

24 Notwithstanding any other provision of this Section, a
25 non-homerule municipality of 130,000 or fewer inhabitants,
26 through its council or board of trustees, may, by ordinance,

1 provide for a position of deputy chief to be appointed by the
2 chief of the police department. The ordinance shall provide for
3 no more than one deputy chief position if the police department
4 has fewer than 25 full-time police officers and for no more
5 than 2 deputy chief positions if the police department has 25
6 or more full-time police officers. The deputy chief position
7 shall be an exempt rank immediately below that of Chief. The
8 deputy chief may be appointed from any rank of sworn, full-time
9 officers of the municipality's police department, but must have
10 at least 5 years of full-time service as a police officer in
11 that department. A deputy chief shall serve at the discretion
12 of the Chief and, if removed from the position, shall revert to
13 the rank currently held, without regard as to whether a vacancy
14 exists in that rank. A deputy chief of police, having been
15 appointed from any rank of sworn full-time officers of that
16 municipality's police department, shall be permitted,
17 regardless of rank, to take promotional exams and be promoted
18 to a higher classified rank than he currently holds, without
19 having to resign as deputy chief of police.

20 No municipality having a population less than 1,000,000
21 shall require that any firefighter appointed to the lowest rank
22 serve a probationary employment period of longer than one year.
23 The limitation on periods of probationary employment provided
24 in this amendatory Act of 1989 is an exclusive power and
25 function of the State. Pursuant to subsection (h) of Section 6
26 of Article VII of the Illinois Constitution, a home rule

1 municipality having a population less than 1,000,000 must
2 comply with this limitation on periods of probationary
3 employment, which is a denial and limitation of home rule
4 powers. Notwithstanding anything to the contrary in this
5 Section, the probationary employment period limitation may be
6 extended for a firefighter who is required, as a condition of
7 employment, to be a certified paramedic, during which time the
8 sole reason that a firefighter may be discharged without a
9 hearing is for failing to meet the requirements for paramedic
10 certification.

11 (Source: P.A. 93-486, eff. 8-8-03; 94-135, eff. 7-7-05; 94-984,
12 eff. 6-30-06.)

13 Section 10. The Fire Protection District Act is amended by
14 changing Section 16.06 as follows:

15 (70 ILCS 705/16.06) (from Ch. 127 1/2, par. 37.06)

16 Sec. 16.06. Eligibility for positions in fire department;
17 disqualifications.

18 (a) All applicants for a position in the fire department of
19 the fire protection district shall be under 35 years of age and
20 shall be subjected to examination, which shall be public,
21 competitive, and free to all applicants, subject to reasonable
22 limitations as to health, habits, and moral character; provided
23 that the foregoing age limitation shall not apply in the case
24 of any person having previous employment status as a fireman in

1 a regularly constituted fire department of any fire protection
2 district, and further provided that each fireman or fire chief
3 who is a member in good standing in a regularly constituted
4 fire department of any municipality which shall be or shall
5 have subsequently been included within the boundaries of any
6 fire protection district now or hereafter organized shall be
7 given a preference for original appointment in the same class,
8 grade or employment over all other applicants. The examinations
9 shall be practical in their character and shall relate to those
10 matters which will fairly test the persons examined as to their
11 relative capacity to discharge the duties of the positions to
12 which they seek appointment. The examinations shall include
13 tests of physical qualifications and health. No applicant,
14 however, shall be examined concerning his political or
15 religious opinions or affiliations. The examinations shall be
16 conducted by the board of fire commissioners.

17 A person who has not qualified for regular appointment
18 under the provisions of this Section shall not be used as a
19 temporary or permanent substitute for certificated members of a
20 fire district's fire department or for regular appointment as a
21 certificated member of a fire district's fire department.

22 (b) No person shall be appointed to the fire department
23 unless he or she is a person of good character and not a person
24 who has been convicted of a felony in Illinois or convicted in
25 another jurisdiction for conduct that would be a felony under
26 Illinois law, or convicted of a crime involving moral

1 turpitude. No person, however, shall be disqualified from
2 appointment to the fire department because of his or her record
3 of misdemeanor convictions, except those under Sections 11-6,
4 11-7, 11-9, 11-14, 11-15, 11-17, 11-18, 11-19, 12-2, 12-6,
5 12-15, 14-4, 16-1, 21.1-3, 24-3.1, 24-5, 25-1, 28-3, 31-1,
6 31-4, 31-6, 31-7, 32-1, 32-2, 32-3, 32-4, 32-8, and subsections
7 (1), (6), and (8) of Section 24-1 of the Criminal Code of 1961.
8 (Source: P.A. 93-589, eff. 1-1-04.)